

PLANNING BOARD OF THE CITY OF BANGOR

MEETING OF NOVEMBER 3, 2004

MINUTES

Board Members Present:	Robert Guerette, Chairman Ryan King David Clark Nat Rosenblatt Harold Wheeler Bill Masters
City Staff Present:	Katherine Weber James Ring Rodney McKay Peter Witham Lynn Johnson
News Media Present:	None

Chairman Guerette called the meeting to order at 7:03 p.m.

PUBLIC HEARINGS

Item No. 1: Amending Chapter 165, Section 165-103 – Industry and Service District to add Medical and Dental Clinics to the list of Permitted Uses. City of Bangor, applicant. C.O. # 04-323.

Chairman Guerette opened the Public Hearing, and asked for proponents. Mr. Rodney McKay, Director of Community and Economic Development, represented the City of Bangor. Mr. McKay indicated that a few years ago when a methadone clinic wanted to locate in Bangor, the Industry and Service District was amended to exclude medical clinics from this District. Mr. McKay indicated that now there is interest from a group of doctors who would like to build a medical clinic in the Maine Business Enterprise Park which is presently zoned as Industry and Service District. Mr. McKay indicated that this area is a logical place to locate such a clinic but in order to do so, the Industry and Service Districts needs to be amended to include Medical and Dental Clinics as a

Permitted Use. Mr. McKay noted that there is another similar type of doctor's building currently within the Maine Business Enterprise Park.

As no one spoke in opposition, Chairman Guerette closed the Public Hearing, and asked for comments from Staff. Planning Officer Weber indicated that the applicant is the City of Bangor for this text amendment to the Land Development Code to add Medical and Dental Clinics as a Permitted use to the Industry and Service District. Ms. Weber explained that Staff feels that medical and dental clinic uses are appropriate uses in the Industry and Service District. Staff recommended that the Planning Board recommend to the City Council approval of the proposed text amendment as indicated in C.O. # 04-323.

Mr. Rosenblatt indicated that while this use may be an appropriate use within the Maine Business Enterprise Park, he questioned the appropriateness of medical and dental clinics in the Industry and Service District in other areas of the City. Planning Officer Weber indicated that Staff feels that medical and dental clinics are appropriate uses in all Industry and Service Districts. Mr. Rosenblatt questioned whether or not this proposed use was consistent with the Statement of Purpose of the Industry and Service District. Ms. Weber indicated that Staff has also had this same discussion, and added that another option discussed was to create a new zoning district for the Maine Business Enterprise Park to a new district. However, because there is interest from a group of doctors who wish to construct a facility in the Maine Business Enterprise Park, and Staff felt that this route was an easier approach than rezoning the entire Park at this time.

Mr. Wheeler asked if methadone clinics or veterinary clinics would be allowed if this amendment is passed. Ms. Weber indicated that this proposal was for medical and dental clinics, and that methadone clinics and veterinary clinics would not be allowed.

Mr. Masters asked if every zone has been reviewed to see if the uses are compatible with the Comprehensive Plan due in light of the social needs and changes since the Comprehensive Plan was adopted. Planning Officer Weber explained that after the completion of the last Comprehensive Plan process, the Land Development Code was adopted and that there have been several amendments to the Code since the adoption of the Comprehensive Plan Update in 2000. Ms. Weber indicated that this was an on-going process.

Mr. Rosenblatt moved to recommend to the City Council approval of C.O. # 04-323 for the amendment to the Industry and Service District to include Medical and Dental Clinics as Permitted Uses. Mr. King seconded the motion. The Board voted 5 in favor and 0 opposed to the motion recommending approval of C.O. # 04-323 to the City Council.

APPROVAL OF MINUTES

Item No. 2: Planning Board Approval of Minutes.

The Board deferred consideration of the Minutes until later on in the Meeting.

NEW BUSINESS

Item No. 3: Final Subdivision Plan approval for a 13-lot subdivision located off of Pine Ledge Road in a Rural Residence and Agriculture District. Vaughn E. Smith, applicant.

Mr. James Tower, P.E. of Engineering Dynamics, represented the applicant, Vaughn E. Smith. Mr. Tower described the subdivision, and indicated that revised plans were submitted that successfully addressed staff concerns.

Planning Officer Weber explained that Vaughn E. Smith, the applicant, was requesting Final Subdivision Plan approval for a 13-lot subdivision located off of Pine Ledge Road in a Rural Residence and Agricultural District. Ms. Weber noted that Staff finds that the applicant has met the conditions of the Preliminary Plan approval and those for Final Subdivision Plan submission. Ms. Weber also noted that the City Engineer has reviewed the Final Plan and finds all of the details in order.

In addition, Ms. Weber indicated that Staff requested that the applicant's engineers provide: (1) a sketch indicating the lot width of Lot 2, (2) provide additional details on the Final Plan to clarify the location of existing and proposed pins, (3) provide information on the lot to be retained by the owner, (4) provide information on the abutting property owner, (5) provide information regarding the proposed drainage easements, and (6) indicate that a former easement with H. D. Smith is to be abandoned.

Mr. Rosenblatt asked Mr. Tower if these technical changes had been addressed. Mr. Tower indicated that revised plans had been submitted that included these changes.

Planning Officer Weber indicated that Staff recommended Final Subdivision Plan approval for Vaughn E. Smith, applicant, located off of Pine Ledge Road subject to the standard conditions of approval that the applicant provide the City with a suitable improvement guarantee in a form acceptable to the City Solicitor's Office, and the requisite stormwater drainage easements within 120 days of approval and additional information.

Mr. Rosenblatt moved approval of the Final Plan for Vaughn E. Smith for a 13-lot subdivision located off of Pine Ledge Road with the standard condition that the applicant provide the City with a suitable improvement guarantee in a form acceptable to the City Solicitor's Office and with the requisite stormwater drainage easements within 120 days of approval. Mr. Clark seconded the motion. The Board voted 5 in favor and 0 opposed to the motion approving the Final Subdivision Plan for Vaughn E. Smith located off of Pine Ledge Road.

APPROVAL OF MINUTES

Item No. 2: Planning Board Approval of Minutes. (Continued)

Chairman Guerette noted that there were three sets of Meeting Minutes that were under consideration, namely, August 17, 2004, October 5, 2004 and October 19, 2004.

Mr. Wheeler did not feel that he had had adequate time to review the August 17, 2004 Meeting Minutes, and noted that he felt that Staff had taken too much time since the meeting date (75 days) to prepare these Minutes for Board approval. The Board continued consideration of the August 17, 2004 Minutes.

Mr. Rosenblatt moved to approve the Minutes of the October 5, 2004 Meeting (as Amended). Mr. Wheeler seconded the motion. The Board voted 5 in favor and 0 opposed to approving the Planning Board Minutes of the October 5, 2004 Meeting (as Amended). Mr. Rosenblatt then moved to approve the October 19, 2004 Planning Board Meeting Minutes. Mr. King seconded the motion. The Board voted unanimously (5 in favor and 0 opposed) in favor of the motion approving the October 19, 2004 Meeting Minutes.

PLANNING BOARD WORKSHOP

The Planning Board left the podium and moved to the table to begin the Workshop session.

Item No. 4: Planning Board Discussion of Subdivision Issues.

Planning Officer Weber indicated that Staff had prepared a list of subdivision issues that had come up for discussion during Planning Board Meetings this past year. Ms. Weber handed out a list of 11 items relating to subdivisions. Ms. Weber indicated that discussion of these items may lead to revisions to the subdivision regulations or a change in policies. She informed the Board that Staff have talked about some of these issues and pointed out that in reality, many of these issues also involve other Departments within the City such

as the Police, Fire, and Public Works Departments. These Departments are all involved in the issue of public safety as they relate to the Board's review of development proposals. Ms. Weber indicated that Mr. Jim Ring, City Engineer, is critically and ultimately involved in subdivision regulations, and has both his professional ideas, as well as, requirements that he looks for when reviewing subdivisions. Ms. Weber said that there needs to be some balance between allowing a developer to be creative while at the same time, allowing them to propose what they wish to propose within the framework of the Ordinance

Open space characteristics was the first item discussed. Ms. Weber indicated that the purpose of having this discussion is for the Board to decide whether or not they want to have an open space requirement, to improve the existing language, or change the existing language. Planning Officer Weber discussed several different model definitions. Mr. Rosenblatt passed out copies of the Town of Orono's Ordinance definition for open space. The Board discussed whether or not open space should be required and if so, what the open space should or should not be used for.

The Board also discussed the ownership of open space, whether by the City, an applicant, or by a Homeowner's Association. Chairman Guerette said that he felt that there was a wide disparity between the Ordinance language and what has been done. Mr. Masters noted that within the Hampden Homebuilders Subdivision, the open space set aside will be maintained by a Homeowners Association. Mr. Masters felt that this was important because there are no play fields in this area of the City. He said that he would like to see the Ordinance definition include what the open space is going to look like, and what it would be used for.

Mr. Masters said that in the case of the 13-lot subdivision proposed off of Pine Ledge Road, people wishing to locate there have made a conscious decision to move themselves to the outskirts of the City, and they are probably willing to take on the additional responsibility of transporting their kids and themselves to a park. Mr. Masters said that the size of the subdivision is also a determining factor in his opinion.

Mr. Wheeler asked if the 5% open space area that is required to be turned over to the City is in anyway connected with the process of eminent domain. Mr. Ring said that he could not think of any reason that that would be the case.

Mr. Masters asked if this was similar to the requirement for a big box development to provide parking. Ms. Weber indicated that it was as it is a requirement, and it is a typical requirement for municipalities. She noted that it

is true that in practice, the City has not been following the instructions in the Ordinance, and that is the reason for this discussion.

Mr. Rosenblatt suggested that the Board hold a straw poll as to whether or not to require open space, and asked the Board if the Members felt that the City should require a set aside of open space as part of the subdivision approval process. Chairman Guerette said that he did agree and he would be agreeable to having that be a function of the size of the subdivision. Chairman Guerette indicated that it was a great opportunity to craft language that will be meaningful, as well as, enforceable and have something that really serves the City well.

Chairman Guerette asked if this would be a public hearing item. Planning Officer Weber indicated that when language is drafted to amend the Ordinance then it would go through the regular text amendment process and would be advertised, a public hearing would be held, and a recommendation by the Planning Board would be forwarded to the City Council.

Mr. Rosenblatt noted that there are other sub-issues such as size, what factors should the Board identify for open space and recreational areas, and a way to provide a framework for the open space to be retained either by a Homeowner's Association or by the original owner.

Chairman Guerette thanked Mr. Rosenblatt for taking the time to research and provide the Board with this resource of Orono's ordinance. He asked if there were any Board Members that do not feel that open space is an important issue, or that the Board should not be dealing with this requirement in subdivisions. Mr. Masters said that he felt that the Board needs to define what open space is. Chairman Guerette noted that the Orono Ordinance indicates that any land set aside should be reasonably adaptable for use for active play and recreation purposes. While it does not make any reference as to slope, tree line, etc., it clearly indicates to the average person that it should be a place adaptable for active play and recreation.

Mr. Ring noted that when there are situations where there is open space provided within a subdivision that it is not transferred or conveyed to the City, and when there is no Homeowner's Association, the ownership interests within the subdivision have a common and equal interest in the undedicated space. Mr. Ring told the Board that he felt that the Board needed to hone in on the definition of recreation, whether organized or passive.

The Board used as examples for open space the recently approved Libby View Subdivision located off of Lancaster Avenue, and the Rolling Meadows subdivision located off of Mt. Hope Avenue.

Chairman Guerette asked Board Members to share their thoughts on this issue prior to language being drafted for consideration and study. Mr. King said that he was in favor of open space and requiring a 5% payment in lieu of open space if the City is not going to acquire the open space the way the Ordinance is written.

Mr. Wheeler indicated that he had bought two houses in Bangor that were not in a subdivision that had a recreational area or open space. Mr. Wheeler indicated that he did not object to the 5% open space requirements, but he did not think that detention ponds should be considered part of the open space requirement. Mr. Wheeler indicated that he also felt that the property owner's rights, as well as, buyer rights should be considered. Mr. Wheeler said that he was very concerned that the Board was on the verge of considering some requirements of subdivision developers that may or may not be practical either from the City's point of view or from the developer's point of view.

Mr. Wheeler said that if there is a 5% open space requirement and the language is tightened up, and the City Council agrees to exclude the detention pond areas from the 5%, he felt that the City would be treading on very dangerous ground if it tried to impose specific definitions of how open space shall be developed, how it should be used, and how it should be dedicated. Mr. Wheeler indicated that this is the kind of government that he opposed, namely, government that imposes its will on the will of the people and the property owners and private business.

Mr. Wheeler added that, without taking issue with any specific comments that have been made, he wished to go on record that there was a need to be very, very careful as we walk down this particular corridor of definitions as to whether or not we are setting a precedent that may lead to a discouragement of the development of housing subdivisions. Mr. Wheeler said that while he thought that everybody agrees that Bangor needs more housing at all levels of income categories, he was concerned that it would be setting a precedent that goes against the principles on which this community was established, and even to take it one step further, on which this nation was established.

Mr. Clark indicated that he was in favor of open space, and added that he did not expect the open space to be an arboretum, nor a well-manicured athletic field. Mr. Clark would like to see the open space to be a place where people, kids, dogs, and adults could go to to get away from the household. Mr. Clark also felt that that developer should not be allowed to use the worst piece of property within a subdivision for open space use. He would like to see the 5% somewhere on the property that would be useable. Mr. Clark suggested that

open space requirements should be different in the urban areas of the City than in the rural areas.

Mr. Masters noted that TIF's (Tax Increment Financing) is given developers for developments, and asked if there was a way to do something similar for housing developments. He suggested that instead of asking the developer to set aside 5%, why not give the developer 5% of the money to put into a particular open space so that they do not feel like they are being asked to give up part of their money. That way the City is investing in a particular neighborhood in a substantial way, by using monetary resources. Mr. Masters said that this may give a developer the motivation to make an attractive subdivision. Mr. Wheeler said that this was one of the best ideas that he had heard yet.

Ms. Weber indicated that it would not be a TIF, per se, because those are geared toward job creation and commercial/industrial activities. Mr. Weber added that it is not to say that there are not other economic incentive programs that could be looked at. Ms. Weber indicated that Staff would draft language for Board consideration. Ms. Weber also noted that this would be placed on a Transportation and Infrastructure Committee meeting agenda, and that Staff would let the Board know when that meeting takes place.

The next issue for discussion was sidewalks. Mr. Rosenblatt made reference to the Subdivision Ordinance where there is a provision for sidewalks and indicated that the Board has the discretion to require sidewalks; and, at a minimum, that the Board is required to require sidewalks when the streets are of a particular characterization. Mr. Rosenblatt indicated that he did not read that the Board could not require sidewalks on other sorts of streets. Mr. Ring noted that sidewalks are required on collector or major arterial streets.

Mr. Masters said that he felt that from a safety standpoint, sidewalks were desirable, especially in the wintertime when there are snow banks forcing kids to walk in the streets. Mr. Masters said that he felt that sidewalks build a sense of community, as well as, provide safety for kids. He said that he understood the expense, but again noted that the citizens of Bangor in the 1989 Survey, indicated that they did not mind their tax dollars going to be spent on sidewalks.

Mr. Ring indicated that the one concern that he has, and he indicated that he was not the person to make policy, is that the City has 160 miles of sidewalks which are utilized in the urbanized area. Most of the new developments are not in what you would consider thru-street grid system. Mr. Ring indicated that the City is striving to get on a 15-year re-visitation sequence for sidewalk maintenance. Most of the developments are in places where there are not or may not be adjacent sidewalks. The Libby View Subdivision was a different

situation in that there is a sidewalk on Essex Street. There is not one on East Broadway. Mr. Ring said that it makes no sense to have sidewalks that we are not going to be maintained unless more resources are provided.

Mr. Rosenblatt asked if any of the sidewalks were publicly maintained. Mr. Ring said that there were no private sidewalks, only those that are on public sites.

Mr. Masters said that he understood the expense of maintaining sidewalks, but again cited that the 1989 Community Survey indicated that they want tax dollars to go towards maintaining the sidewalks. He asked Mr. Ring if he thought that wider roadways in lieu of sidewalks were a good idea. Mr. Ring indicated that he has been advocating wider roadways over the last few years. He said that in a half a dozen of the new subdivisions he has recommended to the developer to provide walking space that is maintainable in lieu of separate sidewalks. He noted the the Fairways Subdivision is an example o this approach. Most of these newer types of subdivisions are not thru traffic situations

Planning Officer Weber indicated that the sidewalk issue is a broader issue because it is an access issue within the subdivision. Ms. Weber noted examples of subdividers offering pathway easements on the back of lots and connections between two roads. Ms. Weber said that sidewalks are one way to provide pedestrian access within a subdivision and, perhaps, to some extent biking, rollerblading, etc. There are pluses and minuses to sidewalks, and pluses and minuses to having alternative pathways throughout a subdivision. There is a difference between an urban area and a developing area.

Mr. Clark suggested that the size of the development, such as those over 90 lots that will have lots of people and lots of traffic, determine the need for a sidewalk. Mr. Rosenblatt asked Staff to ask Assistant City Solicitor Hamer to make an interpretation on this language.

Mr. Masters said that he agreed with Mr. Wheeler that we do not want to drive developers away by adding to their expense, and asked if there is a way to provide that margin of safety that sidewalks provide. He suggested that one of the best solutions would be to require wider roadways.

Mr. Wheeler suggested that there is another aspect to wider roadways and that is the public safety issue. In many of the residential areas, particularly on the West Side, the streets are so narrow that when cars are parked on both sides, it poses a virtual impossibility for emergency vehicles to get through. Mr. Wheeler indicated that he would support wider streets as an alternative to requiring sidewalks.

Chairman Guerette indicated that it would be interesting to find out what the interpretation of the Ordinance language is regarding sidewalks. He asked if sidewalks are imposed, will they automatically become the maintenance responsibility of the City. Mr. Ring indicated that they would as be because they are in the public-way.

Mr. Rosenblatt asked if it would be possible to have sidewalks remaining on private property that the Homeowners' Association would be responsible for. Mr. Ring indicated that property owners might not want that liability.

Planning Officer Weber indicated that sidewalks are one way to provide access within a subdivision but that there are other ways to create walking paths and address access. Ms. Weber indicated that the Board needs to look at the bigger picture, and that the Planning Staff will do some homework on this issue. Ms. Weber also indicated that when the Planning Board solicits citizen input in the Comprehensive Plan process, they can ask Bangor citizens if their priorities are still the same. It would be timely to ask these types of questions again because 1989 was a long time ago.

Item No. 5: Planning Board Discussion of Comprehensive Plan Update Project.

Chairman Guerette noted that the Board has scheduled a workshop for Tuesday, November 9th, and suggested that the Board continue this discussion at that workshop. Mr. Wheeler moved that the Board adjourn and table the remainder of the discussion agenda until next week.

Planning Officer Weber asked that Tuesday's Workshop be focused on the Comprehensive Plan Update Process and indicated that Staff had distributed many materials to the Board. Planning Officer Weber asked Board Members to look over these materials on the Policies and the Implementation Plan. Ms. Weber indicated that Staff will be working on aspects of the Land Use Concepts and Zoning Policy to see where the changes and types of trends have occurred in land uses since the 2000 Comprehensive Plan. At that time, the Board can make decisions as to whether it wants to conduct neighborhood meetings or how to begin to solicit more vigorous citizen input. At that time, the Board can discuss when it would like to start scheduling meetings. Ms. Weber also indicated that Staff will be forwarding a draft Agenda to lay out these ideas.

Mr. Wheeler indicated that he would withdraw his motion and substitute it with a motion that the Board table the remainder of the discussion agenda to a date uncertain or a date to be determined. Mr. Masters seconded the motion. Planning Officer Weber indicated that this would be a running discussion and that Staff will provide feedback on the assignments that were discussed.

Mr. Master noted that there was talk about finding funding to do another survey. Ms. Weber noted that Staff did put in a request in the budget for a City-wide survey which was not approved for funding. Ms. Weber indicated that this is not to preclude other ways of getting a survey done. For example, if you have neighborhood meeting, one part of that meeting could be to have a short survey that would be filled out by the participants as a way to kick off discussions at the meeting. Certain questions could become the basis for the initial discussions in neighborhood meetings and then broaden the discussion out. Ms. Weber said that these are the types of public participation and citizen input discussions that we need to have next week. Planning Officer Weber also asked the Board to review the 1989 Community Attitude Survey since many of those questions are standard Comprehensive Plan Survey questions

Councilor Gratwick indicated that he felt that the Board made a good decision to broadcast the workshop session. He noted that the City Council is anticipating having similar kinds of discussions when they look at their meeting process. Council Gratwick also indicated that this has been the most interesting Planning Board Meeting that he had ever attended in the last three years, and the idea of having a dialogue was very successful. Council Gratwick indicated that he thought that this is a good process.

Chairman Guerette called for a vote on Mr. Wheeler's motion. The Board voted five in favor and 0 opposed to Mr. Wheeler's motion to table discussion on the subdivision issues.

There being no further discussion, the meeting was adjourned at 9:15 p.m.